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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,046	06/07/2001	Dwip N. Banerjee	AUS920010445US1	9020

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EXAMINER

O'CONNOR, GERALD J

ART UNIT PAPER NUMBER

3627

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

CL

Office Action Summary	Application No. 09/876,046	Applicant(s) Banerjee et al.	
	Examiner O'Connor	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ONE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-40 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-13, drawn to a method comprising the processing of a database query, classified in class 707, subclass 3.
 - II. Claims 14-17, drawn to a method comprising the measurement of an interval of time, classified in class 368, subclass 89.
 - III. Claims 18-30, drawn to a data processing system comprising material requirement planning for product assembly or manufacturing, classified in class 700, subclass 106.
 - IV. Claims 31-33, drawn to a system comprising electrical or electromechanical means for measurement or determination of a predetermined interval of time, classified in class 368, subclass 108.
 - V. Claims 34-37, drawn to an automated electrical system for implementing a financial or business practice or arrangement comprising market analysis or demand forecasting, classified in class 705, subclass 10.
 - VI. Claims 38-40, drawn to a networked electrical computer or digital processing system comprising remote data accessing, classified in class 709, subclass 218.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I, III, and V are each related to each of Inventions II, IV, and VI, as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In this case, Inventions I, III, and V each have separate utility from each of Inventions II, IV, and VI, such as for use in forecasting product sales for production planning purposes. See MPEP § 806.05(d).

Inventions III and IV are related to Inventions V and VI, respectively, as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, *and* (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In this case, each combination as claimed does not require the particulars of the respective subcombination as claimed because a system in accordance with either Invention III or IV need not include any user display device. Each respective subcombination has separate utility by itself (i.e., without any machine readable coded indicia).

Invention I is related to each of Inventions III and V, and Invention II is related to each of Inventions IV and VI, as process and apparatus for its practice. The inventions are distinct if it can be shown that *either*: (1) the process as claimed can be practiced by another, materially different apparatus, or by hand, *or* (2) the apparatus as claimed can be used to practice another, materially different process. (MPEP § 806.05(e)). In this case, each process as claimed can be practiced by another, materially different apparatus, or by hand, such as by hand.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. A telephone call was placed to Mr. Robert V. Wilder (Reg. N^o 26,352), attorney for applicant, on September 23, 2004, to discuss an oral election to the above restriction requirement, but the call did not result in an election being made.

5. Applicant is advised that the reply to this requirement, to be complete, *must* include an election of the invention to be examined, even if the requirement be traversed (37 CFR 1.143).

Conclusion

6. Any inquiry concerning this communication, or earlier communications, should be directed to the examiner, **Jerry O'Connor**, whose telephone number is **(703) 305-1525**, and whose facsimile number is (703) 746-3976.

The examiner can normally be reached weekdays from 9:30 to 6:00.

Inquiries of a general nature or simply relating to the status of the application should be directed to the receptionist, whose telephone number is (703) 308-1113.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Mr. Robert Olszewski, can be reached at (703) 308-5183.

Official replies to this Office action may be submitted by any *one* of fax, mail, or hand delivery. **Faxed replies are preferred and should be directed to (703) 872-9306** (fax-back auto-reply receipt service provided). Mailed replies should be addressed to "Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450." Hand delivered replies should be left with the receptionist on the seventh floor of Crystal Park Five, 2451 Crystal Dr, Arlington, VA 22202.

GJOC

September 27, 2004

 (9-27-04)

Gerald J. O'Connor

Patent Examiner

Group Art Unit 3627